a rent, and see Randall v. Rigby, 4 M. & W. 135. But a licence to one by deed, for a term of years, to continue a channel open through the bank of a navigation, in order that the waste water might pass through the channel to the grantee's mill, he paying a certain annual sum therefor, was held in Earl Portmore v. Bunn, 1 B. & C. 694, to operate as a grant in a real hereditament within the meaning of the Statute; though, as it appeared there that the grantors had *not the exclusive right to **355** grant the privilege, nor any legal or even equitable estate in the hereditament as set out in the deed, it was determined that the grantee was not bound by the covenants. But the case now generally referred to on this point is Martyn v. Williams, 1 Hurl. & N. 817, where a conveyance of lands, during the existence of a term in an incorporeal hereditament for the lessee and his assigns to dig china clay there, and to make such adits and erect such sheds, engine houses, and buildings, as he should think necessary for working the clay, was decided to be an assignment of the reversion within the meaning of the Statute, and a covenant to repair such works, &c., as it directly touched and concerned the thing demised, to be assignable with the reversion, so that an action might be brought in the name of the party to whom the lands were conveyed. This case was followed in Hooper v. Clark, 2 L. R. Q. B. 200, where there was a demise of an exclusive right to kill game on certain lands, with the use of a cottage for a keeper, and the defendant covenanted to keep a person on the estate for preserving the game, and to leave it as well stocked at the end of the term; the breach assigned was in not leaving the land as well stocked as at the time of the grant; and it was held that the deed granted an incorporeal hereditament, that the covenant touched and concerned the hereditament, and therefore ran with it, and the assignee of the reversion could sue.[43]

Assignee of reversion not entitled to rent accrued before assignment.—In Anon. Skin. 367, it was held that a devisee, who had assigned over his reversion, might maintain covenant against a lessee for rent due before the assignment; and covenant will lie against the assignee of a term by assignee of the reversion for rent due before the grant over the reversion by him, Midgely v. Lovelace, Carth. 289; but the assignee of the reversion is not entitled to arrears of rent which became due prior to the assignment, Flight v. Bentley, 7 Sim. 149;[44] the assignment will give the assignee the entire title to the rent to become due on the quarter-day next after the assignment, but it will not at law pass the antecedent rent, for that had been severed from the reversion and was a mere *chose in action*. So in Martyn v. Williams *supra*, a claim to damages in respect of a prior breach of covenant was held to be a *chose in action*, which did not pass to the plaintiff with the conveyance of the land. A right of action on a covenant cannot be assigned at law, *per* Mansfield C. J. in Andrew v. Pearce,

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[43] Cf. North Eastern Ry. Co. v. Hastings, (1900) A. C. 260; (1899) 1 Ch. 656; (1898) 2 Ch. 674.

[44] But such rent may be validly assigned to him under Code 1911, Art. 8, sec. 1, and he may combine in one action, (either covenant or debt), a claim for rent accrued after the assignment and a claim for rent accrued prior to the assignment and specifically assigned to him. Ottoun v. Dulin, 72 Md. 536. See also Code 1911, Art. 16, sec. 221.